

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**JAN 24 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LAURYN GALINDO,

Defendant-Appellant.

No. 04-30502

D.C. No. CR-03-00187-TSZ

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Thomas S. Zilly, District Judge, Presiding

Argued and Submitted December 7, 2005  
Seattle Washington

BEFORE: GOULD and BERZON, Circuit Judges, and SCHWARZER,\*\* Senior  
District Judge

Lauryn Galindo (Galindo) appeals her eighteen-month sentence resulting  
from guilty pleas to conspiracy to commit visa fraud, conspiracy to commit money

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\*This disposition is not appropriate for publication and may not be cited to or by  
the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\*The Honorable William W Schwarzer, Senior United States District Judge for  
the Northern District of California, sitting by designation.

laundering, and structuring currency transactions. The district court sentenced Galindo to three concurrent eighteen-month terms, within the initial Guidelines range for visa fraud and money laundering but above the range for the structuring charge.

Galindo contends that the eighteen-month sentence on the structuring charge was an upward departure because it exceeded the relevant Guidelines range. Galindo is mistaken. The Guidelines instruct courts to group the charges, U.S.S.G. § 3D1.2(c), (d) (2004), and apply the highest offense level, U.S.S.G. § 3D1.3. In this case the underlying offenses of visa fraud and money laundering, as adjusted, carried a sentencing range of eighteen to twenty-four months. Galindo was sentenced at the bottom of the applicable range.

Because the district court sentenced Galindo under a mandatory Guidelines regime and because it cannot be determined on this record whether the sentence would have been materially different had the court treated the Guidelines as advisory, a limited remand for resentencing is appropriate. *United States v. Ameline*, 409 F.3d 1073, 1084 (9th Cir. 2005) (en banc); *United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (applying *Ameline* to cases of non-constitutional error). The government conceded at oral argument that a limited remand is appropriate.

SENTENCE REMANDED.